

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SEAN WAYNE PIERCE,

Petitioner,

v.

EDWARD S. ALAMEIDA,

Respondent.

No. C-04-3255 MMC (PR)

**ORDER DENYING REQUEST FOR
CERTIFICATE OF APPEALABILITY;
GRANTING REQUEST TO PROCEED IN
FORMA PAUPERIS ON APPEAL**

(Docket Nos. 16 and 17)

Petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus under 28 U.S.C. § 2254. On August 25, 2005, respondent's motion to dismiss the petition was granted.

Petitioner has filed a request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b). Petitioner has not shown, however, "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 120 S.Ct. 1595, 1604 (2000). Accordingly, the request for a certificate of appealability is DENIED.

Additionally, petitioner has filed with this Court a motion for leave to proceed in forma pauperis. The Court certifies that the appeal is taken in good faith and that petitioner's


1 request to appeal in forma pauperis is GRANTED. See 28 U.S.C. § 1915(a)(3).

2 The Clerk shall forward this order, along with the case file, to the United States Court of
3 Appeals for the Ninth Circuit, from which petitioner may also seek a certificate of
4 appealability. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

5 This order terminates Docket Nos. 16 and 17.

6 **IT IS SO ORDERED.**

7 Dated: October 28, 2005

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9 MAXINE M. CHESNEY
United States District Judge